

REMARKS

This amendment is responsive to the Office Action dated October 30, 2006. Claims 1 - 11 are pending in this application and have been rejected. Reexamination is respectfully requested in view of the foregoing amendments in the claims and following remarks.

Claim Rejections - 35 USC § 102

Claims 1, 2, 5 and 7 have been rejected under 35 USC § 102(e) as being anticipated by Dales 6,759,014. Applicant has canceled claims 1 - 4 and 8 - 11 and respectfully traverses the rejection of claims 5 to 7 for the reasons that follow.

In Dales, the sampling needle is first filled with a sample and then the sample is ejected. Only after ejection is the needle cleaned in an ultrasonic vibrator (141), Figure 3. The Examiner states:

Dales further discloses the method of aspirating the sample from the vessel into the needle (column 18, line 48 through column 19 line 12), ejecting the sample from the sampling needle into the stirred liquid (column 19 lines 51-62), holding the remaining sample in the needle and dipping the needle in cleaning liquid (column 20 lines 27-42), and actuating the ultrasonic device (column 7 lines 53-65).

Applicant respectfully submits that the step of holding a sample in the needle and dipping the needle in a cleaning liquid

is not present at column 20, lines 27 - 42. Column 20, lines 27 - 42 refers to the problem of cross contamination of materials, such as small particles, (e.g., silica particles) which might otherwise interfere or damage the reaction equipment. Still further, the reference to cleaning which removes any build up of polymer materials in the needle adjacent to the port (409), (polymer materials are not the sample). The build up referred to is particles and polymers and this occurs after the needle contents have been rejected.

In Applicant's claimed invention, the purpose of the ultrasonic treatment is to remove the contaminants from the outside of the needle while not removing the contents from the inside of the needle. This purpose is not accomplished in a different manner in '014 where the outside of needle (401) penetrates a wiper member 265 to wipe away slurry material from the outside of the needle (see column 19, lines 22 - 28) and the inside contents are removed. Still further '014 at column 19, line 53 states that the small volume of barrier liquid and the predetermined quantity of slurry material from the cannula are inserted into the vial (165). Still further, there is a predetermined quantity of chaser solvent which is in amounts sufficient to insure that the slurry is effectively transferred to the vessel. This shows that all of the slurry is removed from the needle prior to any cleaning which is described at column 7, lines 50 - 65. The cleaning is described as removing slurry

particles on the interior and exterior surfaces of the needle. On the other hand, as Applicant discloses and claims, Applicant does not remove a sample, which may be slurry particles from the inside of the needle.

The Examiner contends at the top of page 3 that, "no order of the operation of the steps is positively recited in the claims." Applicant respectively traverses this observation with respect to claim 5, which remains in the case.

Claim 5 first recites a step of aspirating a sample into a sampling needle. Placing of the sample into the needle is an essential step to anything which can follow either in Applicant's invention or '014.

In Applicant's second step, Applicant recites a unique step of holding the sample in the sampling needle and dipping the sampling needle in a cleaning liquid. This step is clearly not present in '014 which ejects the sample prior to dipping the sampling needle into the cleaning liquid as pointed out above.

In Applicant's third step, Applicant refers back to the sampling needle dipped in the cleaning liquid. This is the sampling needle which holds the sample as previously recited. The sampling needle, as previously recited, is the one which receives the ultrasonic wave in the cleaning liquid. On the other hand, in the prior art, the sampling needle, which is injected into the cleaning liquid, has already had the sample removed. The sample is not held in the needle, which conflicts

with Applicant's claim.

Applicant's last clause recites a step of ejecting the sample from the sampling needle so as to inject the sample into a moving liquid. Apparently the Examiner contends that this step can be moved up in Applicant's claim 5 to precede the step of holding the sample in the sampling needle and dipping the sampling needle in the cleaning liquid. This is inconsistent, because one cannot eject the sample from the sampling needle and also in a subsequent step hold the sample in the sampling needle.

For the above reasons, there is no anticipation by the '014 patent.

As pointed out above, Applicant's disclosure teaches a different process than that from '014. Applicant retains the sample, which may be slurry, inside the needle and cleans only the outside. In contrast, as taught by '014, both the interior and exterior surfaces of the cannula are cleaned, as pointed out in lines 57 - 59 of column 7 of '014. This is in conflict with the combination of claim elements as outlined above, and the purpose of Applicant's invention which is to clean the outside of the needle and retain the sample on the inside. Also, as pointed out above, '014 cleans the outside of the needle during insertion by wiping slurry material off the outside of the needle as described in column 19, lines 22 - 27.

If Applicant were to follow the rationale of the Examiner, the sample inside of Applicant's needle would be removed.

Claim Rejections - 35 USC § 103

Claim 6 has been rejected on the basis of the Examiner's reference to Branson's ultrasonic B3-R cleaner which is referred to in the Dales reference. However, there is nothing in the record which shows what a B3-R cleaner is. The Examiner has done an apparent internet search to identify the Branson ultrasonic B3-R cleaner. Applicant has performed a similar search and identified only a B3 cleaner, not a B3-R cleaner. Therefore, it is not known what the B3-R cleaner was or if there is any publication or public use or sale of a device which would operate at 55 kHz, or which would support the Examiner's contention that Dales appears to disclose operation at 55 kHz. Applicant attaches to this response additional pages found on the internet.

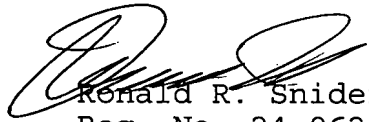
The undersigned searched for B3-R and could find nothing. For this reason, it is respectfully submitted that the Branson reference is not qualified under 35 USC § 102.

Next, the Examiner argues that it would be obvious to operate the invention of Dales between 20 kHz and 80kHz, reasoning that optimum working ranges would involve only ordinary skill. The Examiner has failed to note that Applicant's frequencies in combination with needle sizes were disclosed as those which would clean the outside of the needle, but not vibrate the needle. The non-vibration of the needle, according to Applicant, was allowed to retain the sample inside the needle

while cleaning the outside. This feature of Applicant's invention has not been suggested by the references of record, and it is the reason Applicant has chosen the frequency. It is not a mere matter of design choice, but a matter provided by the physics of the needle and the ultrasonic treatment.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,



Ronald R. Snider  
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Date: April 17, 2007

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**Overall Size:** 5.25" (L) x 5.25" (W) x 6.25" (H)

**Frequency:** 55 kHz

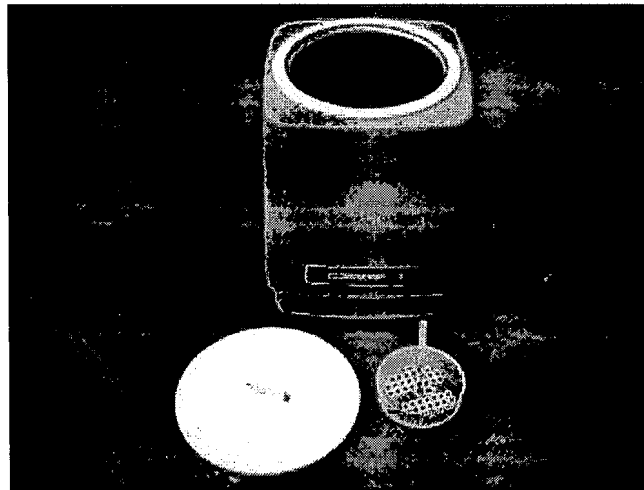
**Tank Cover:** included

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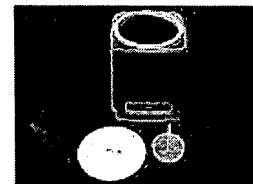


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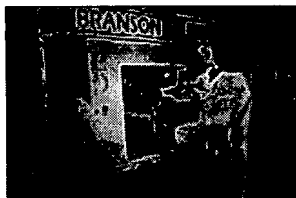
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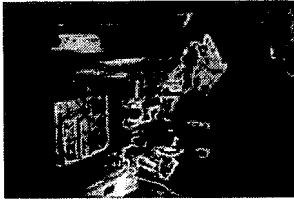
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Model B3  
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1 pint



Model 1510  
6" x 5.5" x 4"  
.5 gal.



Model 2510  
9.5" x 5.5" x 4"  
.75 gal



Model 3510  
11.5" x 6" x 6"  
1.5 gal.



Model 5510  
11.5" x 9.5" x 6"  
2.5 gal.



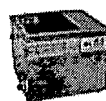
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